

(b) *Health and safety of covered individuals.* If the debarring or suspending official determines that the health and safety of covered persons would be at risk if they remain in a debarred or suspended institution, OPM may terminate FEHBP payments at any time.

(c) *Notice of payment limitations.* If OPM limits any payment under paragraph (b) of this section, it must immediately send written notice of its action to the institutional provider.

(d) *Finality of debarring or suspending official's decision.* The debarring or suspending official's decision to limit or deny payments under paragraph (b) of this section is not subject to administrative review or reconsideration.

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§ 890.1048 Waiver of debarment for a provider that is the sole source of health care services in a community.

(a) *Application required.* A provider may apply for a limited waiver of debarment at any time after receiving OPM's notice of proposed debarment. Suspended providers are not eligible to request a waiver of suspension.

(b) *Criteria for granting waiver.* To receive a waiver, a provider shall clearly demonstrate that:

(1) The provider is the *sole community provider* or the *sole source of essential specialized services in a community*;

(2) A limited waiver of debarment would be in the best interests of covered individuals in the defined service area;

(3) There are reasonable assurances that the actions which formed the basis for the debarment shall not recur; and

(4) There is no basis under this subpart for continuing the debarment.

(c) *Waiver applies only in the defined service area.* A limited waiver applies only to items or services provided within the defined service area where a provider is the *sole community provider* or *sole source of essential specialized services*.

(d) *Governmentwide effect continues.* A limited waiver applies only to a provider's FEHBP transactions. Even if OPM waives a debarment for FEHBP purposes, the governmentwide effect under section 2455 of the Federal Ac-

quisition Streamlining Act of 1994 (Pub. L. 103-355) continues for all other Federal agencies' procurement and nonprocurement programs and activities.

(e) *Waiver rescinded if circumstances change.* OPM shall rescind the limited waiver when any of its underlying bases no longer apply. If OPM rescinds the limited waiver, the provider's debarment shall resume full effect for all FEHBP transactions. Events warranting rescission include, but are not limited to:

(1) The provider ceases to furnish items or services in the defined service area;

(2) Another provider begins to furnish equivalent items or services in the defined service area, so that the provider who received a waiver is no longer the sole provider or sole source; or

(3) The actions that formed the basis for the provider's debarment, or similar acts, recur.

(f) *Effect on period of debarment.* The minimum period of debarment is established when the debarment is initially imposed. A subsequent decision to grant, deny, or rescind a limited waiver shall not change that period.

(g) *Application is necessary for reinstatement.* A provider who has received a limited waiver shall apply for reinstatement at the end of the debarment period, even if a limited waiver is in effect when the debarment expires.

(h) *Finality of debarring official's decision.* The debarring official's decision to grant or deny a limited waiver is final and not subject to further administrative review or reconsideration.

SPECIAL EXCEPTIONS TO PROTECT COVERED PERSONS

§ 890.1049 Claims for non-emergency items or services furnished by a debarred or suspended provider.

(a) *Covered individual unaware of debarment or suspension.* FEHBP funds may be paid for items or services furnished by a debarred or suspended provider if, at the time the items or services were furnished, the covered individual did not know, and could not reasonably be expected to have known, that the provider was debarred or suspended. This provision is intended solely to protect the interests of FEHBP-